

**MINUTES OF THE CITY-COUNTY COUNCIL
AND
SPECIAL SERVICE DISTRICT COUNCILS
OF
INDIANAPOLIS, MARION COUNTY, INDIANA**

**REGULAR MEETINGS
MONDAY, FEBRUARY 22, 2005**

The City-County Council of Indianapolis, Marion County, Indiana and the Indianapolis Police Special Service District Council, Indianapolis Fire Special Service District Council and Indianapolis Solid Waste Collection Special Service District Council convened for a special session in the Council Chamber of the City-County Building at 7:11 p.m. on Monday, February 22, 2005, with President Talley presiding.

Councillor Boyd led the opening prayer and invited all present to join him in the Pledge of Allegiance to the Flag.

ROLL CALL

President Talley instructed the Clerk to take the roll call and requested members to register their presence on the voting machine. The roll call was as follows:

28 PRESENT: Abdullah, Borst, Bowes, Boyd, Bradford, Brown, Cain, Cockrum, Conley, Day, Franklin, Gibson, Gray, Keller, Langsford, Mahern, Mansfield, McWhirter, Moriarty Adams, Nytes, Oliver, Pfisterer, Plowman, Randolph, Salisbury, Sanders, Schneider, Talley
1 ABSENT: Speedy

A quorum of twenty-eight members being present, the President called the meeting to order.

OFFICIAL COMMUNICATIONS

The President called for the reading of Official Communications. The Clerk read the following:

TO ALL MEMBERS OF THE CITY-COUNTY COUNCIL AND POLICE, FIRE AND SOLID WASTE COLLECTION SPECIAL SERVICE DISTRICT COUNCILS OF THE CITY OF INDIANAPOLIS AND MARION COUNTY, INDIANA

Ladies And Gentlemen :

You are hereby notified A SPECIAL FULL MEETING of the City-County Council and Police, Fire and Solid Waste Collection Special Service District Councils will be held in the City-County Building, in the Council Chambers, on Tuesday, February 22, 2005, at 7:00 p.m., the purpose of such MEETINGS being to debate and vote on Proposal No. 44, 2005.

Respectfully,
s/Steve Talley
President, City-County Council

ADOPTION OF THE AGENDA

The President proposed the adoption of the agenda as distributed. Without objection, the agenda was adopted.

SPECIAL ORDERS – FINAL ADOPTION

PROPOSAL NO. 44, 2005. Councillor Sanders reported that the Administration and Finance Committee heard Proposal No. 44, 2005 on February 15, 16 and 22, 2005. The proposal, sponsored by Councillors Nytes, Talley, Sanders, Gray, Moriarty Adams, Brown, Bowes, Mahern, Keller and Boyd, rescinds a prior ordinance of the Marion County Income Tax Council and increases the County Option Income Tax rate. By a 4-3 vote, the Committee reported the proposal to the Council with the recommendation that it do pass as amended. Councillor Sanders said that this is only the first step in addressing public safety issues that have been building for many years. She said that in the public hearings held last week, only two people, one being Councillor Salisbury, spoke in opposition to the proposal. Councillor Sanders moved, seconded by Councillor Gray, for adoption.

Councillor Nytes complimented Councillors for the homework they have done over the past couple of weeks to explore this step. She said that this is just the first step of many that are needed, and the Council still needs to come up with a long-range financial plan to address future shortfalls. She said that the challenges are far greater than what can be accomplished with this one step. She added that some changes will require the help of the State Legislature. The County Option Income Tax (COIT) is one tool the State has given local government, and passage of this proposal would send a strong message to the Indiana General Assembly that the City is committed to doing all they can to provide for criminal justice. Councillor Nytes thanked the Chamber of Commerce for the work they have done in the business community, and added that many business leaders have studied this matter and concluded that this is a step that needs to be taken.

Councillor Sanders said that a technical amendment was made in Committee earlier this evening to insert the word “years” on page 3, Section 2 of Exhibit A. She said that she would therefore like to amend her motion to adopt Proposal No. 44, 2005, as amended. Councillor Moriarty Adams seconded the motion.

Councillor Bowes stated that he supports this proposal because, in looking at the surrounding counties, there is not one of them with a COIT rate below 1%. Although the Council has tried to avoid a tax increase, the time has come to take this action because the City cannot continue to meet its obligations without an increase.

Councillor Salisbury said that testimony was given in Committee hearings that there has been a decrease in COIT income over the last several years due to a recession. However, he has studied figures he received from the State Budget Agency, and surrounding counties like Johnson, Hancock, Hendricks, and Morgan must not have gotten the news that there is a recession, because their income numbers have not changed. He said that he believes the drop in income to be more related to policies and handling rather than a recession. He said that trying to correct the problem with a tax increase will not even help the City break even before 2008. He said that he believes this proposal is misleading and will not correct the underlying problem, but will simply increase taxes.

Councillor Mahern said that he hopes for bi-partisan support of this proposal that is so desperately needed to help the courts. He said that judges and other criminal justice personnel attended the Committee hearings voicing their concerns for needed funds and asking for support of the tax increase. He said that he, for one, is willing to work with them to combat the challenges they face.

Councillor Moriarty Adams said that she has listened for years to public safety officials' concerns about the under-funded criminal justice system. She said that the system has implemented fees, raised fines, denied employees raises, and cut out overtime, yet are still not able to fund critical functions. The assessed value has remained flat for several years, and the court revenues continue to decline. She said that inaction will send the criminal justice system in the wrong direction.

Councillor Borst said that he started the day believing he would vote one way on this proposal and ended the day thinking another. He said that he sat down and calculated over \$115.5 million worth of annual needs for the City and County that cannot be met with the current budget and revenues. He said that he does not think this is the right answer to solving the problem and believes it is just another band-aid which does not come close to fixing the budget woes. However, he recently saw the judiciary and criminal justice system take steps in consolidating administrations to find cost savings and free up funds, and he applauds them for taking these steps and thereby indicating their serious commitment to funding initiatives. He said that he is tired of seeing prisoners released from jail early and wants to see the crime lab get the funds they so desperately need. Councillor Borst said that he was encouraged to see what happened today, with Republicans and Democrats getting together and working to solve problems and communicating openly. He said that the result of these discussions was an agreement to insure that revenues generated by this increase will be used to address funding needs of the criminal justice system and public safety operations, such as jail overcrowding, criminal court expenditures, forensic services, and debt owed to the Indiana Department of Corrections. He said that, if available, new revenues generated by the proposal could be applied to inventory property tax relief for citizens, and if another revenue source is identified, the revenue could be applied to real property tax relief or the COIT could be rolled back. He added that several recommendations are being identified to present to the Marion County Criminal Justice Planning Council for streamlining and creating efficiencies within public safety and the criminal justice system. He said that he is against raising taxes, but will now support this proposal, knowing that the money will go where it is needed most.

Councillor McWhirter said that during Committee discussions, she was not convinced the revenue from the increase would go exclusively to public safety, but after caucus discussions, she is convinced that 100% will go to public safety, and therefore she can now support the proposal, even though she opposed it in Committee.

Councillor Randolph said that as a firefighter, he is frustrated to see people slapping a badge on a tax increase in order to justify it. He said that he came into caucus prepared to vote in opposition to the proposal. He said that he respects lead sponsor Councillor Nytes and her word that all of this increase will go toward public safety and not somewhere else. He said that he will vote in favor of the proposal this evening, but if these funds end up being spent elsewhere and misallocated from public safety, as has happened in the past, he will not let it rest. He asked that the Council not play politics with public safety and its funds.

Councillor Bradford asked if there is a memorandum of understanding between the caucuses and if it would be appropriate to discuss that at this time. Councillor Borst said that there is a

memorandum and it simply outlines the issues he relayed earlier regarding where the dollars will go, excess being applied to inventory property tax relief, rolling back the COIT or providing real property tax relief for citizens if another funding source is found, and recommendations for efficiencies being made to the Planning Council. Councillor Bradford said that in light of the memorandum of understanding, he will support the proposal. He added that he hopes another source can be found so that some tax relief can be given to the citizens, and he is more comfortable with an income tax increase and could not support a property tax increase, as many of his constituents are already in danger of losing their homes.

Councillor Gray stated that he supports Proposal No. 44, 2005, but will not support any memorandum of understanding that may have been created.

Councillor Bowes said that the vote is on Proposal No. 44, 2005, and there is no language being added to the proposal from any memorandum of understanding. He said that Proposal No. 44, 2005, as it was written, was what was debated in Committee, and there has been no debate or public input on any memorandum of understanding. He said that these issues brought up as being part of a memorandum should be saved for the budget process. He asked for clarification as to what the body is actually voting on.

Councillor Schneider said that discussions took place today to guarantee that this money would go towards its intended purpose. He moved to read the memorandum of understanding into the record to be discussed along with the proposal.

Councillor Bradford said that he will not support the proposal unless there is a memorandum of understanding in place. He stated that he cannot vote for a tax increase not knowing where the money is going.

Councillor Day asked if the money is committed to public safety. President Talley stated that he has signed a memorandum of understanding today that was presented to both caucuses. Councillor Day asked if this memorandum means that the money will go to public safety. President Talley said that the memorandum designates the money to be used for systemic public safety issues.

Councillor Schneider asked if the memorandum could be read aloud or copies could be provided for each person.

Councillor Conley asked if all parties have signed the memorandum. President Talley said that all parties have not yet signed it. Councillor Borst asked for the memorandum and said that he will sign it right now.

Councillor Franklin said that she wants to make it clear this increase will not be used for pay increases for public safety. Often, when public safety is mentioned, people automatically assume the money will be spent on police and fire pay increases. She said that this increase will be used for the criminal justice system as a whole and not specifically for police and fire. She said that she wants to be sure everyone has a clear understanding of that.

Councillor Gray called for the question on the motion to adopt Proposal No. 44, 2005, as amended. President Talley ruled that a voice vote would cut off debate and the Council will now proceed to a vote on Proposal No. 44, 2005. Councillor Schneider called for a division and asked for a recorded vote. President Talley stated that a "yea" vote will signify a call for the vote and

close all discussion and a “nay” vote would be in favor of continuing discussion. The division to call the question and end debate failed on the following roll call vote; viz:

13 YEAS: Abdullah, Bowes, Boyd, Brown, Conley, Gray, Mahern, Mansfield, Moriarty Adams, Nytes, Oliver, Sanders, Talley

15 NAYS: Borst, Bradford, Cain, Cockrum, Day, Franklin, Gibson, Keller, Langsford, McWhirter, Pfisterer, Plowman, Randolph, Salisbury, Schneider

1 ABSENT: Speedy

Councillor Oliver said that he has spoken with Councillor Nytes, the lead sponsor on this proposal, and she has assured him that this increase is needed. If she is willing to accept a memorandum, he can also accept that.

Councillor Nytes said that almost all of the people who came to the Committee to speak on this issue were representatives of public safety, criminal justice, the courts, and Sheriff's department. She said that each of these individuals asked for resources to make the city safe. While it is sad that society has come to the point that a person's word is no longer enough to promote a feeling of trust, she does not have a problem with the memorandum of understanding if it brings trust. She said that she promises that her intent with this proposal is for the funds to go towards public safety and criminal justice.

Councillor Mahern said that he understood the increase would be used for criminal justice when he signed on as a co-sponsor, and would not have added his name if that was not the case. He said that he understands that is still the intent, and therefore he will continue to support the proposal.

Councillor Keller agreed with Councillor Mahern and said that he was counting on the money being used for public safety when he added his name as co-sponsor. He said the highest crime rate in the county is in his district, and the commitment to using these dollars for public safety is the only way he can support an increase.

Councillor Schneider said that the issue is where this tax increase revenue will actually go. He said that the Council does not have the authority to allocate this money solely to public safety, as the State distribution formula indicates that percentages of the COIT revenue go to different places. He asked if this proposal refers to the City's allocation of COIT or net COIT revenue, and if it will all go into the County General Fund. Councillor Nytes said that the formula of distribution off the net COIT revenue is decided by the State, but the Council historically votes on the split between the City and the County. However, that percentage split has been meaningless the past few years, with the City taking over expenditures like the Arrestee Processing Center from the County and using fund balance to free up tax money for the County. She said that the Sheriff still cannot afford to pay his gasoline bill. Councillor Nytes said that she is not prepared to say all of the City and County distribution will go into the County General Fund, as different aspects are funded by different funds. However, she is prepared to say that all of this increase will go toward the criminal justice system, based on the Planning Council's recommendations and further discussions. She said that the Arrestee Processing Center is in the City's budget and is not funded from the County General Fund, therefore it is helpful to rely on the Planning Council to help present a complete picture of the funding needs.

Councillor Schneider said that if it is not the Council's authority to determine the distribution of COIT dollars and where they go, he is leary about voting for an increase without answers. Bart Brown, Chief Financial Officer for the Council, stated that the City-County Council does decide

the distribution of COIT dollars between the City and County and do have that authority. He said that it is written into the budget ordinances, and after the State formula is satisfied, the Council has the authority to determine where the City and County portions of the COIT income are spent.

Councillor Randolph said that he is concerned that Mayor Bart Peterson is missing from these discussions, because when the Inventory Tax issue was brought up last year, he was assured money would be spent in certain ways. He said that he trusts that the money will not be misdirected again by the Mayor.

Councillor Bowes stated that this special Council meeting was called because there is a deadline for the Council to act on this proposal so that it can go through the COIT commission before April 1, 2005. He said that once the increase is approved and the revenue is made available, then the Council can go through the normal budget process and debate how this money will best be spent. He said that it seems to be common opinion that criminal justice and public safety issues are the highest priority, and these issues can be ironed out during budget discussions.

Councillor Gray again called for the question on the motion to adopt Proposal No. 44, 2005, as amended. A voice vote was taken and President Talley ruled in favor of calling the question. He called for a vote on Proposal No. 44, 2005. Proposal No. 44, 2005, as amended, was adopted on the following roll call vote; viz:

21 YEAS: Abdullah, Borst, Bowes, Boyd, Bradford, Brown, Conley, Franklin, Gibson, Gray, Keller, Langsford, Mahern, Mansfield, McWhirter, Moriarty Adams, Nytes, Oliver, Randolph, Sanders, Talley

7 NAYS: Cain, Cockrum, Day, Pfisterer, Plowman, Salisbury, Schneider

1 ABSENT: Speedy

Proposal No. 44, 2005 was retitled SPECIAL RESOLUTION NO. 13, 2005, and reads as follows:

CITY-COUNTY SPECIAL RESOLUTION NO. 13, 2005

A SPECIAL RESOLUTION of the City-County Council of Indianapolis and of Marion County, Indiana proposing an ordinance of the Marion County Income Tax Council rescinding its prior ordinance which froze the rate of the County Option Income Tax at the rate in effect as of January 1, 1990, to increase the rate of the County Option Income Tax effective July 1, 2005, and to cast the vote of the City-County Council on said ordinance.

WHEREAS, the Indiana General Assembly established the County Option Income Tax pursuant to I.C. 6-3.5-6, *et seq.*; and

WHEREAS, I.C. 6-3.5-6-2 established the Marion County Income Tax Council; and

WHEREAS, the members of the Marion County Income Tax Council are the City-County Council of the City of Indianapolis and of Marion County, the City Council of Beech Grove, the City Council of the City of Lawrence, the City Council of Southport, and the Town Board of Speedway; and,

WHEREAS, I.C. 6-3.5-6-8 permits the County Income Tax Council to impose a county option income tax on county taxpayers; and,

WHEREAS, The Marion County Income Tax Council imposed the county option income tax in 1984; and

WHEREAS, the County Option Income Tax Council adopted an ordinance to freeze the county option income tax rate in 1990 pursuant to I.C. 6-3.5-6-11 at the rate in effect on January 1 of that year; and

WHEREAS, I.C. 6-3.5-6-11(c) & (d) provides that the Marion County Income Tax Council may rescind such an ordinance and effect an automatic increase in the county option income rate by the

minimum one-tenth of one percent (0.1%), or to the full one percent (1%) maximum if permitted by enactment of the legislature; and

WHEREAS, the tax rate currently in effect for resident county taxpayers is seven tenths of one percent (0.7%); and

WHEREAS, the Marion County Income Tax Council wishes to rescind its prior ordinance which froze the county option income rate, and thereby to effect an increase of the county option income tax rate to the maximum rate as may be permitted by law; and

WHEREAS, the Marion County Income Tax Council must adopt an ordinance rescinding its ordinance freezing the county option income tax rate and to effect an increase of the county option income tax rate on or before April 1, 2005; now, therefore:

BE IT RESOLVED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. The City-County Council proposes an ordinance of the Marion County income Tax Council rescind its ordinance freezing the county option income tax and to increase the county option income rate.

SECTION 2. The City-County Council casts its 92.04 votes in favor of the proposed ordinance of the Marion County Income Tax Council of the proposed ordinance of the Marion County Income Tax Council which ordinance is attached hereto.

SECTION 3. The City Clerk of the City of Indianapolis is hereby ordered to deliver an original executed copy of this Resolution and the proposed ordinance of the Marion County Income Tax Council to the Auditor of Marion County forthwith so that the County Auditor shall deliver copies of said proposed ordinance to other members of the County Income Tax Council, namely, the City Council of the City of Beech Grove, City Council of the City of Lawrence, Town Board of the Town of Speedway and the City Council of the City of Southport, after receipt from the City Clerk and so that the other members of the Marion County Income Tax Council shall, after receipt from the County Auditor, vote on said proposed ordinance.

SECTION 4. This resolution shall be in full force and effect upon adoption and compliance with I.C. 36-3-4-14.

EXHIBIT A

AN ORDINANCE OF THE MARION COUNTY INCOME TAX COUNCIL
UNFREEZING AND INCREASING THE COUNTY OPTION INCOME TAX RATE

WHEREAS, the Indiana General Assembly established the County Option Income Tax pursuant to I.C. 6-3.5-6, *et seq.*; and

WHEREAS, I.C. 6-3.5-6-2 established the Marion County Income Tax Council; and

WHEREAS, the members of the Marion County Income Tax Council are the City-County Council of the City of Indianapolis and of Marion County, the City Council of Beech Grove, the City Council of the City of Lawrence, the City Council of Southport, and the Town Board of Speedway; and,

WHEREAS, I.C. 6-3.5-6-8 permits the County Income Tax Council to impose a county option income tax on county taxpayers; and,

WHEREAS, The Marion County Income Tax Council imposed the county option income tax in 1984; and

WHEREAS, the County Option Income Tax Council adopted an ordinance to freeze the county option income tax rate in 1990 pursuant to I.C. 6-3.5-6-11 at the rate in effect on January 1 of that year; and

WHEREAS, I.C. 6-3.5-6-11(c) & (d) provides that the Marion County Income Tax Council may rescind such an ordinance and effect an automatic increase in the county option income rate by one-tenth of one percent (0.1%); and

WHEREAS, the tax rate currently in effect for resident county taxpayers is seven tenths of one percent (0.7%); and

WHEREAS, the Marion County Income Tax Council wishes to rescind its ordinance freezing the county option income rate and to effect an increase of the county option income tax rate to the maximum rate as may be permitted by law; and

WHEREAS, the Marion County Income Tax Council must adopt an ordinance rescinding its ordinance freezing the county option income tax rate and to effect an increase of the county option income tax rate on or before April 1, 2005; now, therefore:

**BE IT ORDAINED BY THE
MARION COUNTY INCOME TAX COUNCIL**

SECTION 1. The ordinance freezing the county option income tax for Marion County taxpayers is hereby rescinded. The rate imposed for resident county taxpayers hereby equals a minimum rate of eight-tenths of one percent (0.8%) and a maximum rate of one percent (1%), if permitted by statutes in effect or becoming effective on July 1, 2005. The rate imposed for all other county taxpayers equals one-fourth (1/4) of the tax rate imposed upon resident county tax payers. The rates take effect July 1, 2005.

SECTION 2. The tax rates for subsequent years shall be the maximum incremental amount or the full amount allowed by legislative enactment.

SECTION 3. This ordinance shall be in full force and effect on and after the first day of July, 2005.

ATTEST:

CITY-COUNTY COUNCIL OF THE CITY OF
INDIANAPOLIS AND MARION COUNTY, IN

Clerk, City of Indianapolis

President, casting 92.04 votes

ATTEST:

CITY COUNCIL OF THE CITY OF
BEECH GROVE, IN

Clerk, City of Beech Grove

President, casting 1.73 votes

ATTEST:

CITY COUNCIL OF THE CITY OF
LAWRENCE, IN

Clerk, City of Lawrence

President, casting 4.52 votes

ATTEST:

CITY COUNCIL OF THE CITY OF
SOUTHPORT, IN

Clerk, City of Southport

President, casting 0.22 votes

ATTEST:

TOWN BOARD OF
SPEEDWAY, IN

Clerk, Town of Speedway

President, casting 1.50 votes

ANNOUNCEMENTS AND ADJOURNMENT

The President said that the docketed agenda for this meeting of the Council having been completed, the Chair would entertain motions for adjournment.

Councillor Borst stated that he had been asked to offer the following motion for adjournment by:

- (1) Councillors Langsford, Gray, Brown, Randolph and Pfisterer in memory of Robert Housel, Jr.; and
- (2) Councillor Cain in memory of Martha Darlington and Woody Collins.

February 22, 2005

Councillor Borst moved the adjournment of this meeting of the Indianapolis City-County Council in recognition of and respect for the life and contributions of Robert Housel, Jr., Martha Darlington, and Woody Collins. He respectfully asked the support of fellow Councillors. He further requested that the motion be made a part of the permanent records of this body and that a letter bearing the Council seal and the signature of the President be sent to the families advising of this action.

There being no further business, and upon motion duly made and seconded, the meeting adjourned at 8:07 p.m.

We hereby certify that the above and foregoing is a full, true and complete record of the proceedings of the regular concurrent meetings of the City-Council of Indianapolis-Marion County, Indiana, and Indianapolis Police, Fire and Solid Waste Collection Special Service District Councils on the 22nd day of February, 2005.

In Witness Whereof, we have hereunto subscribed our signatures and caused the Seal of the City of Indianapolis to be affixed.

President

ATTEST:

Clerk of the Council

(SEAL)

